

# The Washington Post

## EPA threatens states over Chesapeake Bay cleanup

By David A. Fahrenthold  
Washington Post Staff Writer  
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Federal officials began a sweeping crackdown on pollution in the Chesapeake Bay on Friday - threatening to punish five mid-Atlantic states with rules that could raise sewer bills and put new conditions on construction.

The move by the Environmental Protection Agency is part of the biggest shakeup in the 27-year history of the Chesapeake cleanup. Earlier, when states failed to meet deadlines to cut pollution by 2000 and 2010, nothing happened.

Now, the deadline has been moved to 2025 - but the EPA is already threatening states that lag behind.

On Friday, the agency went after Virginia, Pennsylvania, West Virginia, Delaware and New York, which together account for more than 70 percent of the pollution that causes "dead zones" in the bay. The agency told the states their plans contained "serious deficiencies" and said it could force them to make up the difference with expensive new measures.

It's too early to tell how this might translate into increased property taxes or new rules for farms. But it is clear that - by squeezing states, and calculating they will in turn squeeze homeowners and farmers - the

administration is taking a significant political risk.

In an era when environmentalism seems to be losing steam, it is betting that residents of the Chesapeake region care enough to pay the cost of saving the bay.

"I'm a little concerned that EPA could do something to damage that goodwill" toward the bay, said John Hanger, secretary of Pennsylvania's Department of Environmental Protection.

Hanger said that he thought the EPA's plans were too fast-moving, too draconian: "This isn't China, where the Communist Party meets and announces that 'We're just doing it.' And if EPA proceeds in a way that is more like that . . . it's going to be counterproductive."

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Environmentalists cheered Friday's news as a potential turning point for the Chesapeake. "There's good reason to hope that, decades from now, we'll look back on (Friday) as a watershed moment in the protection of the bay," said Rena Steinzor, a University of Maryland law professor who has advocated for green causes.

But the specter of increased regulation has led local governments to worry that they will have to raise taxes or set new rules, for instance, about how much of new and redeveloped properties must remain as grass and woods.

"I think everyone will jump on a legal reaction if it comes out that the sewer plants will have to go a lot lower" in the pollution they emit, said John Brosious, deputy director of an association of Pennsylvania cities and towns.

And in Virginia, the Farm Bureau warned that new rules on farms could prove suffocating.

"It's basically going to mean that the EPA is a full partner in that farming operation" because rules will be so intrusive, said Wilmer Stoneman of the Farm Bureau. "I'm not sure why that farmer would want to continue."

The Chesapeake's most problematic pollutants, nitrogen and phosphorus, wash downstream in treated sewage, fertilizer and animal manure. In the water, they fuel

unnatural algae blooms, which suck out the oxygen that fish, crabs and oysters rely on.

Federal and state governments have been trying to fix these problems since 1983. They have spent more than \$5 billion, but the cleanup devolved into an odd kind of cordial failure. The EPA did not punish states that failed to deliver on promises. And states - which cracked down on sewage plants - shied away from requiring more expensive changes on farms and from urban storm-sewer systems.

Now, 27 years later, nitrogen has been cut by only about half the amount required. And a study showed phosphorus pollution going up, not down, in eight of nine major Chesapeake tributaries.

On Friday, the tone of the cleanup changed. For better or worse, the Chesapeake became a fight.

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"We all agree that it's not going to be easy. This is a part of that 'not easy,'" said Shawn Garvin, the EPA official in charge of the mid-Atlantic region.

The change was set in motion last May, when President Obama signed an executive order that shifted EPA's role from collaborator to cop. Obama said the agency would attack water pollution as it has successfully attacked air pollution: by requiring local authorities to meet cleanup goals, or face legal consequences.

As of this month, states were required to submit plans for cutting pollution before 2025. When those plans came in, several states admitted that they were not sure how they would do it.

"Full implementation of this plan will likely cost billions of new dollars," Virginia's plan read. "In these austere times, we cannot guarantee such significant additional funding will be provided by our General Assembly."

Environmentalists said the plans lacked crucial details - noting that, in theory, the states should have been working toward the goal of a healthy Chesapeake since the 1980s.

"We don't have any understanding of what's going to be different to meet these goals this time," said Jenn Aiosa, of the nonprofit Chesapeake Bay Foundation, after reading the plans.

The agency said that two plans - submitted by the District and Maryland - had "deficiencies," requiring minor corrections. But for the five states that take up the rest of the Chesapeake's 64,000-square-mile watershed, the agency found serious faults.

The agency gave the states until Nov. 29 to fix these flaws. If they don't, it said, the result could be requirements that sewage plants be upgraded to remove more pollutants, or that urban areas could be forced to corral stormwater with measures like "rain barrels," or grass buffers.

EPA officials said it was too early to say what those new limits would be or how much they would cost. Over the next 45 days, they will hold 18 public hearings on the Chesapeake in all six watershed states and the District.

The EPA's move has made the Chesapeake a test case for American water pollution. There

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are now 300 places with low-oxygen water along the U.S. coastline, and scientists and regulators have been stymied by the Chesapeake's old problem: It's unpopular and expensive to clean up pollution that doesn't come out of a sewer pipe.

"If EPA can't make it work here, they can't make it work anywhere," said Oliver Houck, an environmental-law expert at Tulane University.

Officials in Virginia and Pennsylvania say that is a real risk. In Virginia, Natural Resources Secretary Doug Domenech said that, if the EPA imposes its punishments, residents might have to pay extra taxes or sewer fees.

This month in Loudoun County, there was an early skirmish whose results did not bode well for the Chesapeake. The county board of supervisors proposed a new Chesapeake Bay Ordinance that would have set new limits on construction near waterways.

A standing-room only crowd opposed it as too costly and intrusive, and the council voted to delay consideration of the ordinance. County Supervisor Kelly Burk said the reaction from many people was, "We don't have an impact on the bay."

If she had to do it over again, Burk said, "I wouldn't have referred to it as the Chesapeake Bay Ordinance," she said. Instead, she said she would have played up

environmental benefits closer to home. "I would have called it the Loudoun Stream Ordinance."

*Staff writer Caitlin Gibson contributed to this report.*

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